

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

CALLED TO ORDER BY SUPERVISOR WOERNER, CHAIRMAN

SALUTE TO THE FLAG

ROLL CALL BY CLERK

TOWN COUNCILMAN CRAIG ARTIST
TOWN COUNCILMAN DAVID BRINK
TOWN COUNCILMAN JOEL B. BRINK
TOWN COUNCILMAN ROCCO SECRETO
SUPERVISOR NICKY B. WOERNER

Larry Decker voiced his concern over the Town Clerk, Town Supervisor and Highway Supervisor moving from a two year term of office to a four year term. He felt that this referendum should be at a regular election and not held at a special election with a low voter turn out.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Supervisor Woerner motioned to approve the January 2, 2007 and January 16, 2007 minutes.
2nd by Councilman Secreto
All Ayes

COMMUNICATION

Supervisor Woerner motioned for the town to purchase an AED training unit in an amount not to exceed \$500.00 as per the Town Clerk's request, with money coming from the training and conference line.
2nd by Councilman Secreto
All Ayes

Supervisor Woerner motioned to authorize the Town Clerk to attend the NY State Town Clerks' Conference from April 29, 2007 to May 2, 2007 in the amount of \$631.00
2nd by Councilman Secreto
A Roll Call Vote was taken – All Ayes

Supervisor Woerner motioned to raise the price of Town Zoning Maps from \$5.00 to \$6.00 as per the Town Clerk's request.
2nd by Councilman Joel B. Brink
A Roll Call Vote was taken – All Ayes

Supervisor Woerner motioned to approve the following resolution:

WHEREAS, Town Law, Sections 267 and 271 provide that, effective January 1, 2007, all planning board and zoning board of appeals members in New York State, as well as alternate members of those boards, must complete a minimum of four (4) hours of training each year, and

WHEREAS, the above sections of state law provide that the legislative body of the town specify which activities qualify as training to satisfy the state law requirements;

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

NOW, THEREFORE, be it

RESOLVED, that the Association of Towns with the cooperation and assistance of the Department of State, New York State Planning Federation and others, is approved to provide training to meet the above cited state law requirements when the training provided pertains to municipal planning, zoning, community, design, environmental issues, economic development and local government functions and practices.

2nd by Councilman Secreto
All Ayes

Andrew Zweben, the Town Attorney addressed an article in the Daily Freeman about the Town holding an illegal meeting. It was his opinion that the Town Board did not act as a board or handle any town business at the meeting that Callanan held at the Town Hall. The meeting was strictly for the purpose of receiving information. (see attached legal opinion)

Councilman Joel B. Brink apologized for speaking in error in the paper. He was not invited to attend the meeting, but attended because he wanted to be informed on what was going on and if his attending the meeting made it a quorum, he was sorry.

Councilman Secreto attended the meeting to find out what was going on also and was sorry if he did something wrong.

COMMITTEE REPORTS

Councilman Secreto reported, from the Building and Grounds Committee, that he is working on getting a company to come in to wax the floors at the Highway Department.

Councilman David Brink reported that he has contacted a person who can generate a proposal to fix the air quality issue of the fumes from the trucks at the Town Highway Garage and is waiting for a return call.

Councilman Secreto suggested that the Town contact Legislature Berardi to see what they do at the County Garage.

Councilman Secreto announced the following from the Park & Recreation Committee; Boys and Girls Gymnastics Program for ages 5 – 13, starting March 1, 2007, every Thursday for 6 weeks, 6:00 pm - 7:00 pm, at Excel Gymnastics, 2332 Route 9W at no charge. He reported that the basketball league was a great success. They played 12 games. On March 4, 2007, a dinner will be held at the Hillside Manor at noon at \$15.00 per person. The profits will go to the basketball league. The annual Easter Egg Hunt will be held on Saturday, March 31, 2007 at the MC Miller baseball field. This is being sponsored by the Ulster PBA and the Town Board.

Councilman Secreto reported, from the Highway Committee, that they had five water breaks for the month of January. One water break was during a snowstorm. It has been a team effort with the Highway Department. He reported that the town can give 24 hour notice for a business to

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

remove the snow off of their sidewalks. If a business does not comply, the town can put a lean on a property to charge them for snow removal.

Councilman Joel B. Brink thanked the Highway & Water Department for their work as he believes no one missed a drop of water. He added that it is important for the snow to be removed from the hydrants for safety purposes and that people should be notified.

Supervisor Woerner noticed that the sidewalks had not been cleaned when he came back from the Association of Towns Conference. He had issued a memo to the Highway Department about this. He further had contacted Legislator Michael Berardi about clearing the sidewalk in front of the Business Resource Center. The sidewalk law has been on the books since 1970 and has not been enforced.

Councilman Secreto thanked Mr. Nelson White for his help at the recent Finance Committee meeting to audit the bills for the abstract. He thanked the office staff for their work in preparing this.

Supervisor Woerner thanked Waster Water Superintendent, Corey Halwick and his crew for their help during the water breaks.

Councilman Joel B. Brink reported, from the Personnel Committee, that there are two part-time court clerk positions available. He has a labor management meeting scheduled with the union representative.

Councilman David Brink reported, from the Building and Assessor Committee, that Quick Chek is ready to go, except a final plan has to be submitted for review. The construction on the south corner of Grant Ave and 9W is going to be Hudson Valley Credit Union. They have to demolish a house there and disconnect the water and sewer. There is a Visionworks going in nearby.

Councilman Artist thanked the Town Board for picking up his slack while he was recovering from surgery.

DEPARTMENT HEAD REPORTS

Assessor – Mr. James Maloney reported that this will be the last month for people to file their STAR applications. He is reviewing the building permit lists. He will be offering extended hours to accept STAR applications. He showed a draft copy of a new zoning map. He has to verify all the properties on the map to confirm their zoning. The special district boundaries maps are showing lines cutting through property parcels and he suggested that the town draw the line to cover the whole parcel. Supervisor Woerner suggested that the assessor proceed with those changes and bring them before the Town Board for review. He gave the Town Board members updated pages to their assessor's handbooks.

Councilman Secreto thanked Nancy France in the assessor's office for her work on the Town Website.

Building Department – The monthly report was read. Mr. Martin Petersen reported that the Helmich property, on North Drive, was posted. Supervisor Woerner suggested that this issue be forwarded to the Town Attorney, Kevin Bryant.

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

Ulster Town Clerk- The monthly report was read. Town Clerk Cosenza reported that he had compiled an 81 page competitive SARA grant application for \$26,000, to convert the Building Department's SBL file to a digital format for the records database.

Councilman David Brink reported he had received a memo from the Town Clerk's office for a request of a town server and IT support provider. Supervisor Woerner suggested that Councilman David Brink and Artist hold a meeting to discuss it.

Highway Department –Mr. Tinnie, the Highway Superintendent, gave the monthly report. He expressed concern about cars being on the side of the road when plowing.

Councilman Secreto suggested that a memo could be sent out with the Town Tax bill to remind people to remove their cars from the road and to shovel their sidewalks.

Water Department - Superintendent Paul Vogt reported that the East Kingston Water District Project is moving along very well.

Waste Water Department – Supervisor Woerner reported that all is going well.

Police Department – Monthly report was read. Chief Paul Watzka further reported that the town police car computers will be updated to a county standard.

ABSTRACT OF CLAIMS

Councilman Joel Brink motioned to approve the following:

| February-07 FUND | ABSTRACT CLAIM # | AMOUNT |
|-----------------------------|-----------------------------|-------------------|
| UTILITIES | | |
| GENERAL | 201-226 | 10,427.76 |
| ULSTER WATER | 201-206a | 4,643.26 |
| HALCYON PK. WATER | 201-202 | 577.80 |
| SPRING LAKE WATER | 201-203 | 234.84 |
| BRIGHT ACRES WATER | 201 | 280.50 |
| GLENERIE WATER | 201 | 16.69 |
| WHITTIER SEWER | 201-203 | 2,083.08 |
| ULSTER SEWER | 201-204 | 11,879.53 |
| SPECIAL LIGHT | 201-206 | 3,150.66 |
| ALL OTHERS | | |
| GENERAL | 201-2200 | 229,235.12 |
| HIGHWAY | 201-226 | 42,293.27 |
| WHITTIER SEWER | 201-204 | 668.84 |
| ULSTER SEWER | 201-224 | 24,831.89 |
| ULSTER WATER | 201-228 | 53,482.92 |
| HALCYON PK. WATER | 201-202 | 50.00 |
| SPRING LAKE WATER | 201-203 | 22,744.44 |
| BRIGHT ACRES WATER | 201-204 | 550.00 |
| CHERRY HILL WATER | 201-203 | 6,027.24 |
| GLENERIE WATER | 201-203 | 1,898.00 |
| EAST KINGSTON WATER | 201-202 | 75.00 |
| INSURANCE (ALL FUNDS) | 201-236 | 198,578.17 |

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

CAPITAL PROJECTS

| | | |
|-------------------------|---------|----------------------|
| TRUST & AGENCY | 201-225 | 19,505.97 |
| DRAINAGE PROJECTS | 201-206 | 22,450.84 |
| EAST KINGSTON WATER | 201 | 118,513.62 |
| GLENERIE WATER LATERALS | 201-206 | 6,325.00 |
| ULSTER WATER CAP. PROJ. | 201-203 | 6,188.00 |
| TOTAL | | \$ 786,712.44 |

2nd by Councilman Secretto
A Roll Call Vote was Taken – All Ayes

Supervisor Woerner motioned to approve the following:

Budget Modifications:

East Kingston

Water: Decrease Construction from \$1,503,212.00 to \$1,432,139.19

Capital Project Decrease Engineering from \$363,000.00 to \$347,889.00

Revise Budget Increase Contingency from \$94,188.00 to \$180,371.81

General Fund: Modify Revenue A2665 (Sale of Equipment) and Appropriation A3120.201 (pol.Vehs.& Prep) purchase of Ford Explorer by East Kingston Volunteer Fire Co. 3,000.00

General Fund: Modify Revenue A1270 (Shared Serv. Charges) and Approp. A3120.201 (Police Wages) salary reimb. from City School Dist. for John Dickson, Sept-Dec. '06' as school resource officer 15,993.84

General Fund: Modify Revenue A1270 (Shared Serv. Charges) and Approp. A3120.100 (Police Wages) salary reimb. for David Kimble in the Ulster Co. Family Violence Unit for 2006 81,543.95

General Fund: Modify Appropriation A7110.427 (Handicap Fishing Platform) to be funded through A5990 (Approp. Fund Bal.) Project #C202892 Phase II, Post-payment to Brinnier & Larios 1,641.00

General Fund: Modify Revenue A2189 (DWI-Task Force) and Appropriation A3120.102 (DWI Wages) DWI Wage Grant 6,134.75

General Fund: Modify Revenue A1589 (Step Program) and Appropriation A3120.103 (Traffic Safety Program-Wages) Grant from Gov. Traffic Safety Committee-Wage reimbursement 6,577.04

General Fund: Modify Revenue A1589 (Step Program) and Appropriation A3120.103 (Traffic Safety Program - Wages) Grant #5667102 Buckle Up New York - Nov. '06 Receivable 2,086.90

General Fund: Modify Revenue A3989 (Child Seat Grant) and Appropriation A3120.440 (Child Seat Grant) State Grant 5,319.12

General Fund: Modify Appropriation A1620.454 (Maintenance) to be funded through A5110 (Approp. Reserve- Bldg. Reserve) expenditures

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

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| | to Town Hall-lights and repairs to police department | 8,474.76 |
| General Fund: | Modify Appropriation A1670.404 (Postage) to be funded through A5110 (Approp.Reserve-Comprehensive Plan) mailing surveys | 757.31 |
| General Fund: | Modify Appropriation A8020.405 (Comprehensive Planner) to be funded through A5110-Approp.Reserve-Comprehensive Plan) payments to planner | 17,886.10 |
| General Fund: | Modify Appropriation A3120.201 (Police Veh. & Prep.) to be funded through A5110 (Approp. Reserve-Equipment) purchase of 2 Dodge Chargers and light installation | 40,360.86 |
| Highway Fund: Reverse Budget Mod.of 11-21-06 | Decrease D5990 (Approp.Fund Bal.) and D5110.401 (Multi-Modal Project) Town Share reconstruction of Eastern Parkway and Glenerie Blvd. | 92,818.00 |
| Highway Fund: | Modify Revenue D3501 (Chips Aid) and Appropriation D5112.200 (Chips Program) additional funding not budgeted | 14,064.02 |
| Ulster Sewer: | Modify Appropriation SS2-8130.400 (Plant Improvement) to be funded through SS2-5110 (Approp.Reserve) payments to Arold Paving and Hudson Valley E.C.& M. | 62,637.52 |
| Ulster Sewer: | Modify Revenue SS2-4960 (Emergency Disaster Assistance) and Appropriation SS2-8760.400 (Emergency Disaster Work) reimbursement from FEMA for flood damage to Sewer Interceptor on Esopus Avenue | 51,376.63 |
| General Fund: | Modify the following Appropriations to be funded through A5990 (Approp. Fund Balance): | 144,428.15 |
| | A3120.102 DWI Wages \$ 2,133.15 | |
| | A3120.104 P/T Officer Wages 101,995.00 | |
| | A3120.421 Vehicle Maint. 40,300.00 | |
| Special Districts: | Modify Revenue SLL-1081 (Other-Payment-In Lieu of Taxes) and Appropriation SLL-7410.400 (Library) payment to Ulster Co. for K-Mart Settlement | 4,486.76 |
| Fire Dist: | Modify Revenue SSR-1081 (Other Payment-In Lieu of Taxes) and Appropriation SSF-3410.403 (Fire Dist - Ulster Hose #5) payment to Ulster Co. for K-Mart Settlement | 25,335.00 |
| Washington Avenue Sewer Cap. Proj.: | Transfer From HWS-8130.200 Equip. | Transfer To HWS-8130.401 Legal/Admin. 17,000.00 |
| Ulster Water Capital Project: | Transfer From HWT-8130.400 Engine | Transfer To HWT-8130.401 Legal/Admin. 4,000.00 |

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

Spring Lake

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| Water: | Modify Appropriation SW3-8320.455 (Water Costs) to be funded through SW3-5990 (Approp. Fund Bal) | 3,451.00 |
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GENERAL
FUND:

| Transfer From | Transfer To | |
|----------------------------|-------------------------------|-----------|
| A1110.404 Train/Conf. | A1110.102 Security Officer | 32.00 |
| A1110.404 Train/Conf. | A1110.402 Office Equip | 101.00 |
| A1110.101 Clerks Wages | A1110.400 Court Stenographers | 25.00 |
| A1220.101 Sec.Salary | A1220.103 P/T Payroll Clerk | 240.00 |
| A1220.101 Sec.Salary | A1220.403 Office Supplies | 272.00 |
| A1220.101 Sec Salary | A1220.404 Payroll Services | 236.00 |
| A1110.404 Train/Conf | A1220.403 Payroll Services | 4,355.00 |
| A1220.101 Sec Salary | A1320.100 Bookkeeper | 3,947.00 |
| A1320.400 comp. & supplies | A1320.401 IBM/Contractual | 78.00 |
| A1355.418 Legal/Profess. | A1320.402 auditor | 2,170.00 |
| A1330.401 ComputerExp. | A1330.403 Office Supplies | 39.00 |
| A1330.101 Clerk's Wages | A1341.100 Purchasing Clerk | 2,016.00 |
| A2330.101 Clerk's Wages | A1345.400 Meet & Instrs. | 176.00 |
| A1355.418 Legal/Profess. | A1355.400 Data Processing | 5,684.00 |
| A1355.418 Legal/Profess. | A1355.404 GIS | 3,730.00 |
| A1355.418 Legal/Profess | A1355.405 Mileage,Exp | 206.00 |
| A1355.418 Legal/Profess | A1380.400 Paying Agent | 3,431.00 |
| A1450.400 Election Insp | A1410.101 Deputy clerks | 5,652.00 |
| A1450.400 Election Insp | A1410.400 Computer Expense | 155.00 |
| A1450.400 Election Insp. | A1410.404 Law Books | 221.00 |
| A1450.400 Election Insp. | A1420.400 Legal Fees | 23,761.00 |
| A1450.400 Election Insp. | A1450.401 Insp. Custodians | 1,400.00 |
| A1450.400 Election Insp. | A1460.400 Records Management | 1,324.00 |
| A1450.400 Election Insp. | A1620.100 Building Custodian | 233.00 |
| A1450.400 Election Insp. | A1620.406 Telephone | 1,958.00 |
| A1450.400 Election Insp. | A1620.454 Maintenance | 7,352.00 |
| A1110.403 Office Suppl. | A1620.454 Maintenance | 1,520.00 |
| A1621.406 Telephone | A1621.407 Electric | 45.00 |
| A1670.404 Postage | A1621.409 Repairs & Supplies | 2,782.00 |
| A3120.101 O.T. | A3120.103 Traffic Safety | 27.38 |
| A3120.101 O.T. | A3120.200 Equipment | 1,034.00 |
| A3120.101 O.T. | A3120.201 Veh.& Prep | 5,613.00 |
| A3120.101 O.T. | A3120.403 Office Supplies | 21.00 |
| A3120.105 Holiday Pay | A3120.420 Gas & Oil | 15,902.00 |
| A3120.106 Training Pay | A3120.420 Gas & Oil | 9,450.00 |
| A3120.101 O.T. | A3120.430 Clothing-Cleaning | 7,582.00 |
| A3120.101 O.T. | A3120.432 Ammo. Guns | 131.00 |
| A3120.411 Radio-Teletype | A3120.435 Canine | 3,464.00 |
| A3120.101 O.T. | A3120.437 Meal Allowances | 813.00 |
| A3620.101 P/T Bldg Insp. | A3620.102 Clerk's Wages | 195.00 |
| A3620.101 P/T Bldg Insp. | A3620.103 P/T Fire Insp. | 239.00 |
| A3620.101 P/T Bldg Insp. | A3620.403 Office Supplies | 145.00 |
| A3620.101 P/T Bldg Insp | A3620.405 Conference/School | 10.00 |
| A3620.101 P/T Bldg Insp | A3620.420 Gas & Oil | 228.00 |
| A3620.101 P/T Bldg Insp | A3620.421 Veh. Maint | 16.00 |

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

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| | A5132.408 Heat | A5132.406 Telephone | 327.00 |
| | A5132.408 Heat | A5132.409 Repairs & Supplies | 566.00 |
| | A5132.408 Heat | A5132.454 Maintenance | 1,070.00 |
| | A7110.200 Equipment | A7110.406 Telephone | 123.00 |
| | A7110.200 Equipment | A8010.101 Mun. Code Officer | 2,566.00 |
| | A1355.418 Legal/Profess | A8020.400 Planner | 7,812.00 |
| | A6140.400 Home Relief | A8160.100 Recycling Wages | 8,922.00 |
| | A8160.401 Dumping Costs | A8160.421 Veh Main. | 3.00 |
| | A8160.420 Gas & Oil | A8160.421 Veh. Maint. | 1,000.00 |
| | A8160.402 Tub Grinding | A8160.421 Veh. Maint | 2,200.00 |
| | A8810.400 Cemeteries | A8160.404 Printing-permits | 949.00 |
| | A8160.492 Recycling Tires | A8160.430 Uniform Cleaning | 1,209.00 |
| | A8160.200 Equipment | A8760.400 Emergency Disaster | 1,470.00 |
| | A8160.401 Dumping Costs | A8760.400 Emergency Disaster | 91.00 |
| | A8160.409 Tools & Supplies | A8760.400 Emergency Disaster | 1,362.00 |
| | A8160.492 Recycling Tires | A8760.400 Emergency Disaster | 1,545.00 |
| | A9010.8/00 State Retirement | A9015.800 P&F Retirement | 22,854.00 |
| | A9010.800 State Retirement | A9030.800 Soc. Sec. | 23,009.00 |
| | A9010.800 State Retirement | A9070.800 Medicare Reimb. | 4,833.00 |
| | A9010.800 State Retirement | A9060.800 Hosp. & Dental | 4,739.00 |
| | A9050.800 Unemploy. Insur. | A9060.800 Hosp. & Dental | 6,500.00 |
| | A5182.400 Lighting | A9060.800 Hosp. & Dental | 9,638.00 |
| | A1910.400 Unalloc Insur | A9060.800 Hosp. & Dental | 3,750.00 |
| | A8989.400 Lndfll Fee-Fire | A8760.400 Emergency Diaster | 1.00 |
| Highway Fund: | D5110.100 Wages | D5110.430 Clothing-cleaning | 7,000.00 |
| | D5142.100 Wages | D5140.100 Beautification | 3,067.00 |
| | D5142.100 Wages | D5142.420 Gas & Oil | 4,160.00 |
| | D5110.100 Wages | D9060.800 Hosp. & Dental | 11,033.00 |
| | D9030.804 Soc. Sec | D9060.804 Hosp. & Dental | 1,524.00 |
| | D9030.804 Soc. Sec | D9070.804 Medicare Reimb. | 772.00 |
| Whittier Sewer: | SS1-1990.480 Contingency | SS1-1420.400 Legal Fees | 610.00 |
| | SS1-8130.423 Sewer Mains | SS1-8130.458 DEC Permit | 456.00 |
| Ulster Sewer: | SS2-8130.200 Equipment | SS2-8110.100 Wages | 29,269.00 |
| | SS2-8130.454 Maintenance | SS2-8130.458 DEC Permit | 4,614.00 |
| | SS2-8130.454 Maintenance | SS28130.430 Uniforms-Cleaning | 590.00 |
| | SS2-8130.454 Maintenance | SS2-8130.437 Meal Allowances | 110.00 |
| | SS2-8130.454 Maintenance | SS2-8130.451 Chemicals | 290.00 |
| | SS2-8130.423 Sewer Mains | SS2-8760.400 Emergency Disaster | 2,530.00 |
| | SS2-9060.800 Hosp. & Dntl | SS2-9030.800 Soc. Sec | 430.00 |
| | SS2-9060.800 Hosp. & Dntl | SS2-9070.800 Medicare Reimb. | 1,010.00 |
| | SS2-1380.400 Paying Agent | SS2-9710.700 Interest | 2,341.00 |
| Washington Ave. Sewer: | SS3-8110.100 Wages | SS3-9730.700 Ban Interest | 3,279.00 |
| | SS3-9730.600 Ban Prin. | SS3-9950.900 Transf. Cap. Proj. | 60,000.00 |
| Ulster Water: | Transfer From | Transfer To | |

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

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| | SW1-1380.400 Paying Agent | SW1-1930.400 Judgmnt & Claims | 0.10 |
| | SW1-8310.101 O.T. | SW1-8310.100 Wages | 3,352.00 |
| | SW1-8320.250 Meter & Hydrts | SW1-8310.100 Wages | 4,146.00 |
| | SW1-8320.400 Engineering | SW1-8310.100 Wages | 610.00 |
| | SW1-8320.400 Engineering | SW1-8310.404 Postage | 837.00 |
| | SW1-8320.400 Engineering | SW1-8310.406 Telephone | 260.00 |
| | SW1-8320.455 Water Costs | SW1-8320.407 Electric | 1,649.00 |
| | SW1-8320.455 Water Costs | SW1-8320.430 Uniform-clean. | 654.00 |
| | SW1-8320.455 Water Costs | SW1-8320.454 Maintenace | 1,690.00 |
| | SW1-8320.455 Water Costs | SW1-8330.401 Lab Testing | 449.00 |
| | SW1-8320.455 Water Costs | SW1-8330.452 Salt | 3,511.00 |
| | SW1-8320.455 Water Costs | SW1-9055.800 Disability | 96.00 |
| | SW1-8320.455 Water Costs | SW1-9055.800 Hosp. & Dental | 2,489.00 |
| | SW1-8320.455 Water Costs | SW1-9070.800 Medicare Reimb. | 778.00 |
| | SW1-8320.409 Rep. & Suppl. | SW1-8310.100 Wages | 727.00 |
| Halcyon Park Water: | SW2-8310.403 Office Suppl. | SW2-8310.404 Postage | 16.00 |
| Spring Lake Water: | SW3-8320.409 Rep. & Suppl. | SW3-8330.401 Lab Testing | 149.00 |
| Bright Acres Water: | SW4-8310.403 Office Suppl. | SW4-8310.404 Postage | 2.40 |
| Glenerie Water: | SW6-9950.900 Transf.Cap.Proj. | SW6-8310.404 Postage | 115.00 |
| | SW6-9950.900 Transf.Cap.Proj. | SW6-8320.455 Water Costs | 242.00 |
| | SW6-9950.900 Transf.Cap.Proj. | SW6-8330.401 Lab Testing | 205.00 |
| | SW6-9950.900 Transf.Cap.Proj. | SW6-8330.458 DEC Permit | 51.00 |
| | SW6-9950.900 Transf.Cap.Proj. | SW6-9030.900 Soc Sec | 0.30 |
| East Kingston Water: | SW7-8320.455 Water Costs | SW7-1420.400 Legal Fees | 4,041.00 |
| | SW7-9060.800 Hosp. & Dntl | SW7-1420.400 Legal Fees | 3,500.00 |
| | SW7-8310.402 Auditor | SW7-1420.400 Legal Fees | 447.00 |
| | SW7-8310.100 Wages | SW7-1989.400 Grants Writer | 2,500.00 |
| | SW7-8320.455 Water Costs | SW7-8320.409 Rep. & Suppl. | 1,134.00 |
| 2 nd by Councilman Joel B. Brink | | | |
| A Roll Vote was taken – All Ayes | | | |

Presentation from the Honorable Cris Hendrick, Ulster Tax Collector

Mrs. Cris Hendrick, the Town Tax Collector, suggested abolishing her position and having the Town Clerk perform the service for a stipends of \$5,000.00. The remaining estimated expenses of \$10,900 of her salary, the saving of health insurance and other expenses would save \$26,991.00 annually (see attached proposal). She suggested using three part-timers for the tax collecting process and the Town Clerk managing it.

Town Clerk Cosenza questioned the savings of merging and suggested looking at all the options of cost savings, such as cutting health care benefits for all part-time officials and seeing if the

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

County Treasurer/Comptroller would be interested in collecting the taxes. He further questioned the \$5,000 stipends for a job that is currently valued at \$31,991.

There was a brief discussion among the Town Board about health care benefits being cut. None of the current Councilmen take the health insurance. The Town Supervisor, Town Clerk, Highway Superintendent, Town Justice and Tax Collector participate in the health insurance.

Supervisor Woerner motioned to set a public hearing, to gather input from the public, about abolishing the position of Tax Collector, for the term that ends in 2007, for March 5, 2007 at 7:30 PM

2nd by Councilman Secreto

All Ayes

Regarding the establishment of four year terms for the Town Supervisor, Superintendent of Highways and Town Clerk

Supervisor Woerner reported that it is the consensus of the Town Board to have the option on the ballot for the November election, but a petition can be submitted to call for a special election for the purpose.

Councilman Joel Brink is in favor of the proposal to increase the term of office to take effect for the 2010 rather than 2008 election.

Supervisor Woerner motioned to set a public hearing to gather input from the public about increasing the length of terms from two to four years for Town Supervisor, Superintendent of Highways and Town Clerk for March 5, 2007 at 7:45 PM

2nd by Councilman David Brink

All Ayes

Association of Towns –

Supervisor Woerner reported that he, Deputy Supervisor Charles E. Thomas, Town Attorney Andrew Zweben, Planning Board Chairman Gerard “Ozzie” Beichert, Assessor James Maloney, and Town Justices Susan Kesick and Marsha Weiss attended the Association of Towns Conference. There were a variety of classes available for training. He spoke to the new State Comptroller, Thomas P. DiNapoli.

2007 Applications to the Governor's Office for Small Cities Community Development Block Grant Applications.

Supervisor Woerner motioned to set a public hearing for March 5, 2007 at 7:15 PM on the Community Development Block Grant Program to solicit ideas for possible grants. It was suggested that the Town would like to apply for an East Kingston lateral assistance program and a recreation/senior center.

2nd by Councilman Secreto

All Ayes

ULSTER TOWN BOARD MEETING
FEBRUARY 21, 2007 AT 7:00 PM

It was explained that the latter grant would go for a two building complex; one that houses a meeting room for 100 seniors and the other building a municipal auditorium, with a full basketball court with bathrooms, locker rooms and every other need inside. The projected cost would be around \$2 M. The HUD grant will potentially provide \$300,000. He has spoken to Congressman Hinchey about additional funding. He has also spoken to representatives at the USDA and they are interested in providing financing for the project. There was a discussion about getting money for green buildings. The Town has \$1.1 M in the unappropriated fund balance and about \$1,075,000.00 in Landfill Closure. It is further being explored to see if Senator Bonacic and Assemblyman Cahill will introduce a hotel/motel tax for the specific purpose of recreation and economic development.

Supervisor Woerner motioned to set a public hearing for HUD on March 19, 2007 at 7:45 PM, on the Community Development Block Grant Program addressing community development needs and priorities

2nd by Councilman Secreto

All Ayes

Going out to bid for Salt and Chemicals for 2007

Supervisor Woerner motioned to authorize the Town Clerk to go out to bid for salt and chemicals for the Town of Ulster Water and Whittier Sewer District.

2nd by Councilman Secreto

All Ayes

Tina Carpino inquired why the public was not notified of the meeting between the Town Board and Callanan Industries and expressed concern about the damage being done to the residents' homes in the East Kingston area.

Supervisor Woerner stated the meeting was for informational purposes to show what Callanan will be doing, where they are going, and what results are expected. He was invited and he brought the Town Attorney and a consultant to review this information. The meeting was for the purpose of Callanan expressing their intentions and responding to what the DEC wanted done. A letter was sent out to the hamlet (attached). It was never intended to be a Town Board meeting.

Larry Decker – Suggested that agendas be available at the Supervisor's Office.

There was a discussion between the Supervisor, Town Attorney Andrew Zweben, and Mr. William Kimble, a reporter for the Daily Freeman, about the legality of the meeting between the Town and Callanan about blasting in East Kingston. An agreement was made for a conference call with Mr. Robert Freeman, a representative of the NYS Open Government Office, to discuss the issue.

Supervisor Woerner motioned to adjourn the meeting at 9:14 PM

2nd by Councilman Joel B. Brink

All Ayes

Respectfully Submitted by

Jason Cosenza, RMC FHCO - Ulster Town Clerk

ANDREW P. ZWEBEN
ATTORNEY AT LAW

ANDREW P. ZWEBEN

DAVOR N. MAJORSKI

12 JOHN STREET
KINGSTON, NEW YORK 12401

(845) 338-8900
FAX (845) 338-8947

February 21, 2007

Nicky B. Woerner
Town of Ulster Supervisor
Town Hall
Lake Katrine, New York 12449

Re: Callanan meeting

Dear Supervisor Woerner:

You have asked me for an opinion regarding the events surrounding last Friday's meeting with representatives of Callanans and NYSDEC concerning Callanan's activities in East Kingston Kingston.

As you know Callanan's invited you to a meeting, along with representatives of the DEC and the Assemblyman Cahill's office in order to advise you of activities they were undertaking to review their blasting procedures. As the Assemblyman himself was unavailable Callanans asked if the meeting could be held in Town Hall. As a courtesy you advised the other members of the Town Board but the meeting was not scheduled or held at their convenience. The meeting was not held for the purpose of discussing Town business and was intended solely to provide information to you and to the Assemblyman. Importantly, there was no expectation that a quorum of the board would attend or that there would be any discussion amongst the attendees of official actions that the Town itself might undertake.

After reviewing both the facts of this matter and the applicable law, I find that neither you nor any other Town Board member did anything improper under the provisions of the Open Meetings Law of the State of New York.

Although section 103(a) of the Public Officers Law provides in pertinent part that "[e]very meeting of a public body shall be open to the general public", in this case there was no meeting of the Town Board. Simply put, you did not call a meeting of the Town Board at which official Town business would be debated and a resolution would be made. Nor was this intended as a "workshop" or working session of the Board. The original intent and the reality of the situation as it occurred was that Callanans advised

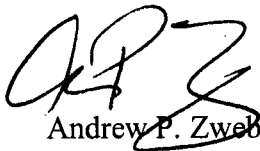
ANDREW P. ZWEBEN
ATTORNEY AT LAW

representatives of the NYSDEC, the Town and the State Assemblyman's office of the activities it was engaged in and answered questions by way of further explanation. There was no discussion amongst the board members concerning Town business, nor was any action suggested or requested requiring Town Board discussion, review or vote. Indeed, the Town Board did not have any authority with respect to the matters discussed so that no board action was even possible.

Attached hereto is an opinion of the New York State Committee on Open Government addressing a question as to whether public officials who attended a briefing session called by the Town, were in violation of Open Meetings Law. The conclusion was that they were not. Moreover, Chairman Freeman of the Committee goes on to describe circumstances that are somewhat akin to those presented here; that is, when a quorum of a public body attend one of his briefing sessions.

Also attached is a copy of Warren v. Giambra, a case which held that the attendance by a quorum of the Erie County legislature at a meeting with members of the State legislature for the purpose of discussing state restrictions on the use of the county's road reserve and what the state delegation might do to relieve the county's fiscal problems was not an "official convening" of the County government body as the County legislators were merely seeking the advice of the State legislators. The court stated that the meeting was "in the nature of an instructional session as opposed to one characterized by debate and decision."

Very truly yours,



Andrew P. Zweben



**STATE OF NEW YORK
DEPARTMENT OF STATE
COMMITTEE ON OPEN GOVERNMENT**

41 State Street, Albany, New York 12231
(518) 474-2518
Fax (518) 474-1927
<http://www.dos.state.ny.us/coog/coogwww.html>

May 24, 2000

OML-AO-3161

The staff of the Committee on Open Government is authorized to issue advisory opinions.

The ensuing staff advisory opinion is based solely upon the information presented in your correspondence.

Dear

I have received your letter of April 16 in which you raised a question relating to the Open Meetings Law.

According to your letter, the Board of Trustees of the Smithtown Library scheduled a meeting for April 11 at 7 p.m. to discuss the adoption of a resolution involving a capital proposition, and notice relating to that meeting was given as required by the Open Meetings Law. Briefings on the matter were scheduled for the morning and afternoon of that day to provide the news media with an opportunity to raise questions and acquire background information concerning the proposal. No public notice of the briefings was given. Two members of the Board participated in the morning session. Although only the Board chair, who did not attend the morning session, was to participate in the afternoon session, the two who attended the morning session decided to stay for the afternoon session as well. When a reporter saw that three trustees were present during the afternoon session, "he refused to participate unless one of them left, claiming that quorum of the board was present and therefore the briefing constituted a 'public meeting' and was in

violation of the Open Meetings Law." One of the trustees left the room, and the issue was resolved. You asked, however, whether the gathering would have been subject to the Open Meetings Law had three trustees been present.

In this regard, §102(1) of the Open Meetings Law defines the term "meeting" to mean "the official convening of a public body for the purpose of conducting public business". It is emphasized that the definition of "meeting" has been broadly interpreted by the courts. In a landmark decision rendered in 1978, the Court of Appeals, the state's highest court, found that any gathering of a quorum of a public body for the purpose of conducting public business is a "meeting" that must be convened open to the public, whether or not there is an intent to take action and regardless of the manner in which a gathering may be characterized [see *Orange County Publications v. Council of the City of Newburgh*, 60 AD 2d 409, aff'd 45 NY 2d 947 (1978)].

Inherent in the definition and its judicial interpretation is the notion of intent. If there is an intent that a majority of a public body convene for the purpose of conducting public business, such a gathering would, in my opinion, constitute a meeting subject to the requirements of the Open Meetings Law. However, if there is no intent that a majority of public body will gather for purpose of conducting public business, collectively, I do not believe that the Open Meetings Law would be applicable.

As I understand the situation, there was no intent that a majority of the Board should be present at either of the briefings. Further, it does not appear that the function of the briefings involved the Board engaging in conducting public business, collectively, as a body. If that is so, the gathering, in my view, would not have constituted a "meeting".

I point out that similar questions have arisen at workshops and seminars during which I have spoken and which were attended by many, including perhaps a majority of the membership of several public bodies. Some of those persons have asked whether their presence at those gatherings fell within the scope of the Open Meetings Law. In brief, I have responded that, since the members of those entities did not attend for the purpose of conducting public business as a body, the Open Meetings Law, in my opinion, did not apply. It would appear that the same conclusion could be reached with respect to the matter that you described.

I hope that I have been of some assistance. Should any further

questions arise, please feel free to contact me.

Sincerely,

Robert J. Freeman
Executive Director

RJF:jm

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Motions, Pleadings and Filings

Supreme Court, Erie County, New York.

Daniel T. WARREN, Plaintiff,

v.

Joel A. GIAMBRA, as County Executive of the
County of Erie, New York; Joseph
Passafiume, as Director of the Erie County Division
of Budget, Management &
Finance; David J. Swarts, as Clerk of the County
of Erie, New York; County
Legislature, County of Erie, New York; Kevin M.
Kelley, as Clerk of the
Legislature of the County of Erie, New York; and
County of Erie, New York,
Defendants.

April 6, 2006.

Background: Suit was brought seeking judgment declaring that actions taken by county legislature regarding adoption and amendment of county budget and seeking action by state legislature authorizing county to increase its share of sales and use tax violated county charter and Open Meetings Law.

Holdings: The Supreme Court, Erie County, John P. Lane, J., held that:

- (1) meetings with county executive were subject to Open Meetings Law;
 - (2) conference in judge's chambers was judicial proceeding, exempt from Open Meetings Law;
 - (3) meeting after conference was not exempt;
 - (4) gathering of county and state legislators was not a "meeting" subject to Open Meetings Law; and
 - (5) permanent injunction was not warranted.
- Ordered accordingly.

West Headnotes

[1] Counties 52

104k52

Private meeting in Democratic chambers of county legislature, attended by all eight Democratic legislators, was not "political caucus," exempt from Open Meetings Law, given presence of county executive, who was a Republican; more than a quorum was assembled, and discussions concerning budget pending before legislature and possible funding compromises took place, although no

agreements were reached. McKinney's Public Officers Law § 108(2)(a).

[2] Counties 52

104k52

Meeting of two-thirds majority of county legislators, consisting of both Republican and Democratic members, in private law office with county executive to discuss budget issues, including restoration of member items and patronage positions, in an attempt to reach a compromise, violated Open Meetings Law.

McKinney's Public Officers Law §§ 100-111.

[3] Counties 52

104k52

Conference convened in chambers by judge to whom lawsuits challenging county budget cuts had been assigned, attended by all county legislators, the parties, mediators and county executive, was "judicial proceeding," not subject to Open Meetings Law. McKinney's Public Officers Law §§ 100-111.

[4] Administrative Law and Procedure 124

15Ak124

Conferences held by members of judiciary with attorneys or parties, whether in their courtrooms or chambers, are judicial proceedings, not subject to Open Meetings Law. McKinney's Public Officers Law § 108(1).

[5] Counties 52

104k52

Meeting, on day after meeting with judge in chambers, but attended only by county legislators and mediators, to address major deficit arising from anticipated failure of revenue estimates, was not "judicial proceeding," exempt from Open Meetings Law. McKinney's Public Officers Law § 108(1).

[6] Counties 52

104k52

Gathering of at least ten members of county legislature, representing both political parties, and members of state legislature, to discuss state restrictions on use of county's road reserve fund and what state delegation could do to help resolve county's budget dilemma, was not a "meeting," subject to Open Meetings Law; assembly did not constitute "the official convening of a public body for the purpose of conducting public business," and

(Cite as: 12 Misc.3d 650, 813 N.Y.S.2d 892)

none of those present was engaged in "a governmental function," rather, those members were seeking advice of State Legislators in effort to restore fiscal stability to county budget within available legal means. McKinney's Public Officers Law § 102(1, 2).

[7] Administrative Law and Procedure ☞ 124
15Ak124

Open Meetings Law should be liberally construed. McKinney's Public Officers Law §§ 100-111.

[8] Municipal Corporations ☞ 92
268k92

Sanction generally is not warranted for violation of Open Meetings Law, in absence of evidence that defendants attempted to mislead court in describing what happened at challenged meetings and lack of prejudice to public or persistent pattern of deliberate violation of letter and spirit of the Law by public body. McKinney's Public Officers Law §§ 100-111.

[9] Injunction ☞ 22
212k22

County legislators' violation of Open Meetings Law did not warrant permanent injunction against future violations; one violation was due to misunderstanding concerning application of exemption, and composition of legislature had changed as a result of intervening elections. McKinney's Public Officers Law §§ 100-111.

[10] Counties ☞ 52
104k52

Neither county nor clerk of county legislature was "public body" subject to Open Meetings Law. McKinney's Public Officers Law §§ 100-111.

****893** Daniel T. Warren, Pro Se.

Laurence K. Rubin, Erie County Attorney by George Michael Zimmerman, Esq., First Assistant County Attorney, for Defendants.

****894** JOHN P. LANE, J.

***651** In this action, plaintiff Daniel Warren seeks a judgment declaring that actions taken by the Erie County Legislature in December 2004 and February and March 2005 regarding adoption and amendment of the county budget for 2005 and seeking action by the State Legislature authorizing Erie County to increase its share of the sales and use tax was in

violation of the County Charter and Open Meetings Law (Public Officers Law article 7). Initially, he moved for a preliminary injunction enjoining defendants from presenting a home rule message to the State Legislature seeking permission to increase the county's share of the sales and use tax and expending any funds in excess of those provided for in the tentative budget submitted by the County Executive on November 5, 2004.

The Open Meetings Law provides that

It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the ***652** making of public policy.

(Public Officers Law § 100). Every meeting of a public body, such as the Erie County Legislature, must be open to the general public, except when an executive session is authorized by law (*id.* § 103[a]). Notice of such meetings shall be given to the news media and public generally (*id.* § 104). On the facts of this case, the challenged meetings were not executive sessions of the Legislature.

Following a hearing on plaintiff's application for a preliminary injunction, this court determined that 10 Republican and Democratic legislators of the 15 member Erie County Legislature had met privately with the County Executive and his staff on December 8, 2004 to discuss the 2005 county budget, a subject then pending before the Legislature. [FN1] While the meeting was clearly a violation of the Open Meetings Law, there was no evidence that an agreement concerning the budget or sales tax proposal was reached. Thus, plaintiff failed to establish sufficient cause for overturning the resolutions on those subjects adopted later at a public session of the Legislature (*see Matter of Malone Parachute Club v. Town of Malone*, 197 A.D.2d 120, 610 N.Y.S.2d 686 [1994]), and plaintiff's motion was denied.

FN1. December 8 was the deadline for the County Legislature to present a budget amended to include added or increased items of expenditures to the County Executive (Erie County Charter § 1803[c]). Action to increase the county's share of the sales and use tax without a referendum requires the affirmative vote of two-thirds of the entire membership of the county legislature (*id.* § 1812).

(Cite as: 12 Misc.3d 650, *652, 813 N.Y.S.2d 892, **894)

This case proceeded to a bench trial at which County Legislators Lynn Marinelli, Al DeBenedetti and Barry Weinstein testified. The parties agreed that the testimony taken at the hearing on plaintiff's application for a preliminary injunction be incorporated into the trial record. At the conclusion of the trial, the parties moved for summary judgment.

[1] A private meeting in the Democratic chambers of the County Legislature attended by all eight Democratic legislators and County Executive Giambra, a Republican, took place on December 7, 2004, without notice to the news media or public. Discussions concerning the budget for 2005 then pending before the Legislature and possible funding compromises took place, although no agreements were reached. Defendants contend that this ****895** was a political caucus exempt from the Open Meetings Law under Public Officers Law § 108(2)(a).

[2] ***653** The trial testimony confirmed the findings made on the application for the preliminary injunction that a two-thirds majority of county legislators consisting of both Republican and Democratic members met in a private law office with the County Executive on December 8 to discuss budget issues, including restoration of member items and patronage positions, in an attempt to reach a compromise, in violation of the Open Meetings Law. No notice of the meeting was given. It became heated and broke up without agreement. A public session of the Legislature followed at which a budget adoption resolution was approved.

[3] By mid-February 2005, Erie County's Sheriff, District Attorney, County Clerk and Comptroller had commenced actions against the County challenging budget cutbacks that had been enacted as a result of a projected deficit in the 2005 county budget caused by the failure of the County Legislature to approve an increase in its share of the sales and use tax by a two-thirds vote. At the time, these lawsuits had been assigned to Hon. Joseph G. Makowski, who appointed three mediators to assist the parties in their discussions concerning budget issues. On February 13, Justice Makowski convened a meeting in his chambers that was attended by all County Legislators, the parties, mediators and County Executive. The following day, the Legislators and mediators continued their

discussions in a private meeting at Medaille College, without reaching any agreement. While media representatives were present, they were not allowed to attend that meeting.

On March 19, 2005, at least ten members of the County Legislature, again representing both political parties, gathered with members of the State Legislature at the Donovan State Office Building. Discussions regarding state restrictions on the use of the county's road reserve fund and what the state delegation could do to help resolve the county's budget dilemma ensued, but no agreements were reached. No more than seven County Legislators were in the room where the discussions took place at any time. Members of the news media had been notified of the meeting, but those who attended were excluded.

The Open Meetings Law defines a meeting as the official convening of a public body for the purpose of conducting public business, including the use of video conferencing for attendance and participation by the members of the public body (Public Officers Law § 102[1]). The Erie County Legislature is a public body and its members are required to comply with the provisions of the Open Meetings Law.

***654** Deliberations of political committees, conferences and caucuses are exempt from the Open Meetings Law when attended by members and adherents of the same political party and their staff and guests (Public Officers Law § 108 [2] [b]). The public interest is promoted by "private, candid exchange of ideas and points of view among members of each political party concerning the public business to come before legislative bodies" (*Matter of Humphrey v. Posluszny*, 175 A.D.2d 587, 588, 573 N.Y.S.2d 790, *appeal dismissed* 78 N.Y.2d 1072, 576 N.Y.S.2d 222, 582 N.E.2d 605 [1991]). Given the presence of the County Executive, the private assembly of the Democratic majority of the County Legislature on December 7, 2005 was not an exempt political caucus. Notice to the public and news media was required.

[4][5] The Open Meetings Law does not apply to judicial or quasi-judicial proceedings (****896** Public Officers Law § 108[1]). Conferences held by members of the judiciary with attorneys or parties, whether in their courtrooms or chambers, are judicial proceedings within the meaning of the Open Meetings Law. The meeting at Medaille College

(Cite as: 12 Misc.3d 650, *654, 813 N.Y.S.2d 892, **896)

attended by the Legislators and mediators, however, was not a judicial proceeding and therefore does not qualify for the judicial exemption (*id.*).

[6] The Donovan Building meeting between some members of the County Legislature who were seeking advice from members of the State Legislature and financial assistance from the State was not subject to the Open Meetings Law. This assembly did not constitute "the official convening of a public body for the purpose of conducting public business" (Public Officers Law § 102[1]), and none of those present was engaged in "a governmental function" (*id.* § 102 [2]). [Rather, those members were seeking the advice of State Legislators in an effort to restore fiscal stability to the county budget within available legal means. It was in the nature of an instructional session as opposed to one characterized by debate and decision.

"The purpose of the Open Meetings Law is to prevent municipal governments from debating and deciding in private what they are required to debate and decide in public" (*Gernatt Asphalt Prod., Inc. v. Town of Sardinia*, 87 N.Y.2d 668, 686, 642 N.Y.S.2d 164, 664 N.E.2d 1226 [1996]). "[T]he Legislature, by enacting the Open Meetings Law, intended to affect the entire decision-making process and not merely formal vote taking as it is the deliberative process which is at the core of" [that law]" (*Matter of Goodson Todman Enterprises, Ltd. v. City of Kingston Common Council*, 153 A.D.2d 103, 105, 550 N.Y.S.2d 157 [1990]; see also *Matter of Sciolino v. Ryan*, 81 A.D.2d 475, 440 N.Y.S.2d 795 [1981]). *655 Where, as here, more than a quorum of the County Legislature assembled on December 7 and 8, 2004 to discuss the adoption of the 2005 budget, a subject that had come before it earlier at meetings required to be open to the public, and on February 14, 2005 met to address a major deficit arising from the anticipated failure of its revenue estimates, violations of the Open Meetings Law occurred (*see Goodson*).

[7] The court is mindful that the Open Meetings Law should be liberally construed (*see Matter of Gordon v. Village of Monticello*, 87 N.Y.2d 124, 637 N.Y.S.2d 961, 661 N.E.2d 691 [1995]) and its objective to maintain openness of the legislative sessions of public bodies is of utmost importance in our society. In an action such as this, the court has

"the power, in its discretion, upon good cause shown, to declare any action or part thereof taken in violation of [the Open Meetings Law] void in whole or in part" (Public Officers Law § 107[1]). However, the Court of Appeals has ruled that "not every breach of the Open Meetings Law" automatically triggers its enforcement sanctions" (*Matter of New York Univ. v. Whalen*, 46 N.Y.2d 734, 735, 413 N.Y.S.2d 637, 386 N.E.2d 245 [1978]).

[8][9] In the absence of evidence that defendants attempted to mislead the Court in describing what happened at the challenged meetings and a lack of prejudice to the public or a "persistent pattern of deliberate violation of the letter and spirit of the Open Meetings Law" by a public body (*see Matter of Goetschius v. Board of Educ. of Greenburgh Union Free School Dist.*, 281 A.D.2d 416, 417, 721 N.Y.S.2d 386 [2001]), a sanction generally is not warranted (*see Matter of Griswald v. Village of Penn Yan*, 244 A.D.2d 950, 665 N.Y.S.2d 177 [1997]). In the absence of aggravating factors, the courts of New York do not routinely award injunctive **897 relief and impose sanctions for non-prejudicial violations of the Open Meetings Law. It appears that there was a misunderstanding concerning the application of the judicial proceedings exemption to the meeting held at Medaille College, rather than a willful violation of the Open Meetings Law. Furthermore, the composition of the current Legislature, as a result of the November 2005 general elections, is markedly different than it was at the time the challenged meetings occurred. Thus, a permanent injunction against future violations of the Open Meetings Law by the Erie County Legislature is not in order.

[10] It is ADJUDGED that neither defendant Kevin M. Kelley, Clerk of the County Legislature, nor defendant County of Erie, is a public body subject to the Open Meetings Law or otherwise involved in the events of December 7 and 8, 2004 and February *656 14, 2005 and the complaint is dismissed as to them; plaintiff's claims that violations of the Open Meetings Law occurred on December 12 and 15, 2004 are unproven and likewise dismissed.

It is ADJUDGED AND DECLARED that: (1) the meetings with the County Executive by eight Democratic members of the County Legislature on December 7, 2004 and by ten Republican and Democratic members in a private law office on

(Cite as: 12 Misc.3d 650, *656, 813 N.Y.S.2d 892, **897)

December 8, 2004 were subject to, and held in violation of, the Open Meetings Law; (2) the conference held by Justice Makowski on February 13, 2005 was a judicial proceeding and was not subject to the Open Meetings Law; (3) the meeting at Medaille College on February 14, 2005 attended by all members of the County Legislature was subject to and held in violation of the Open Meetings Law; (4) the meeting among members of the County Legislature and State Legislature on March 19, 2005 was not a meeting as defined in and subject to the Open Meetings Law; and further, (5)

plaintiff's application for a permanent injunction is denied.

12 Misc.3d 650, 813 N.Y.S.2d 892, 2006 N.Y. Slip Op. 26147

Motions, Pleadings and Filings (Back to top)

. 0012768/2004 (Docket) (Dec. 15, 2004)

END OF DOCUMENT

Proposal of joining the Town Clerk with the Tax Collection Department

"Under Section 36 of the Town Law:

The Town Board may by resolution; adopt at least one hundred and fifty days prior to any biennial town election, determine that said office (tax collector) be abolished, same to take effect at the expiration of the term of office to which the incumbent was elected or appointed."

Quote Per :

James D. Cole

Assistant Attorney General

In Charge of Opinions

4/29/1997 Opinion # 97-23

Proposed Budget of Town Clerk/Tax Collector Combination

Current Tax Collector Annual Budget

| | |
|------------------------|--------|
| Tax Collector Wages | 15,900 |
| Part Time Clerks Wages | 8,000 |
| Office | 1,450 |

| | |
|-----------------------------------|----------------------|
| Total Tax Collector Budget | <u>25,350</u> |
|-----------------------------------|----------------------|

Current Town Clerk's Annual Budget

| | |
|-------------|--------|
| Wages | 91,220 |
| Office/Misc | 6,401 |

| | |
|--|----------------------|
| Total Current Town Clerk Budget | <u>97,621</u> |
|--|----------------------|

| | |
|---|-----------------------|
| Total Current Town Clerk and Tax Collector | <u>122,971</u> |
|---|-----------------------|

Proposed Annual Town Clerk/Tax Collection Budget

(from tax office)

| | |
|-----------------|--------------|
| Part Time Wages | 8,000 |
| Office/Misc | 1,450 |
| | <u>9,450</u> |

| | |
|--|---------------|
| Total Current Town Clerk Budget | 97,621 |
|--|---------------|

Total Proposed Town Clerk/Tax Collector Budget

| | |
|---|-------|
| (tentative) Clerk/Collector wage increase | 5,000 |
|---|-------|

| | |
|--|-----------------------|
| Town Clerk/Tax Collector Budget | <u>112,071</u> |
|--|-----------------------|

| | |
|---|----------------------|
| Difference of current budget less proposed | <u>10,900</u> |
|---|----------------------|

Total Annual Town Budget Savings

| | |
|----------------------------|---------------|
| Tax Collector Wages | 10,900 |
|----------------------------|---------------|

additional savings

| | |
|------------|------------|
| 7.65% FICA | \$1,216.35 |
|------------|------------|

| | |
|-------------|----------|
| Futa & Suta | \$897.50 |
|-------------|----------|

| | |
|------------------|----------|
| Health Insurance | 13976.84 |
|------------------|----------|

| | |
|------------------------|--------|
| sum additional savings | 16,091 |
|------------------------|--------|

| | |
|---|----------------------|
| Total Annual Savings to the Town | <u>26,991</u> |
|---|----------------------|

| | |
|------------------------------------|-----------------------|
| Savings Over Four Year Term | <u>107,963</u> |
|------------------------------------|-----------------------|